

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
1:18-cv-00461**

MICHAEL SHAUGHNESSY,)	
)	
Plaintiff,)	
)	
v.)	MOTION FOR SPOILIATION
)	SANCTIONS AGAINST DUKE
)	UNIVERSITY
DUKE UNIVERSITY, PRIVATE)	
DIAGNOSTIC CLINIC, PLLC,)	
)	
Defendants.)	
_____)	

NOW COMES the Plaintiff, by and through counsel, and, pursuant to Fed. R. Civ. P. 37(e), moves this Court to sanction Defendant Duke University for spoliation of electronically stored information (“ESI”). Text messages exchanged by Duke’s decision-makers and key employees have been lost and Plaintiff has suffered prejudice as a result.

WHEREFORE, for the reasons outlined in his Memorandum in Support of Motion for Spoliation Sanctions, Plaintiff respectfully requests that this Court enter an Order:

1. Sanctioning Defendant Duke by providing an adverse inference instruction to the jury regarding spoliation of Dr. Gavin Martin’s text messages; and
2. Sanction Defendant Duke by allowing Plaintiff to present argument to the jury regarding the spoliation of Dr. Joseph Mathew’s, Dr. Eddie Sanders’, Dr. Gavin Martin’s, and Dr. Jeffrey Gadsden’s text messages.

This, the 25th day of September, 2020.

Kornbluth Ginsberg Law Group, P.A.

/s/ Joseph E. Hjelt

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date filed the foregoing ***MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SPOILIATION SANCTIONS*** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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This, the 25th day of September, 2020.

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